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TESTIMONY
BEFORE THE
HOUSE TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY
MANAGEMENT

ON
READINESS IN THE POST-KATRINA AND POST 9.11 WORLD: AN EVALUATION OF THE
NEW NATIONAL RESPONSE FRAMEWORK

THE UNITED STATES HOUSE OF REPRESENTATIVES

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Thank you Chair Norton, Ranking Member Graves and distinguished members of the Committee. It is my pleasure to be here today to express my views on the evolution of the National Response Plan and the now currently titled National Response Framework. I am Tim Manning, Director of the New Mexico Department of Homeland Security and Emergency Management. In my statement, I am representing the National Emergency Management Association (NEMA), whose members are the state directors of emergency management in the states, territories, and the District of Columbia, where I am currently serving as the Chairman of the Response and Recovery Committee. I was named the first director of the New Mexico Department of Homeland Security and Emergency Management's by Governor Bill Richardson in April 2007, having previously been appointed to his Cabinet as Director of the Governor's Office of Homeland Security in 2005 and as the State Director of Emergency Management since early 2003. My background includes a number of positions in the State's emergency management agency, including Chief of the Emergency Operations Bureau, and having been, at various times, a firefighter, EMT, rescue mountaineer, hazardous materials specialist, and hydrogeologist. Overall, I have fifteen years in the emergency management field including my service as a first responder.

Over the past calendar year, I have served as the NEMA Representative to the DHS/FEMA National Response Plan Senior Interagency Steering Committee, which is overseeing updates to the National Response Plan mandated by the Post-Katrina Emergency Management Reform Act (P.L. 109-295). As I come before you today, NEMA has two significant issues related to the National Response Framework (NRF). First, the current draft of the National Response Framework must be reworked to reflect a true operational plan or an additional document must be drafted to replace the NRP. Second, the collaborative and cooperative process in rewriting the document failed.

NRP Revisions Timeline

Over the last five years, the development of the National Response Plan has been a bumpy and winding road. On September 11, 2001, the federal government responded to the terrorist attacks using the Federal Response Plan and the United States Government Interagency Domestic Terrorism Concept of Operations Plan, or CONPLAN. The Federal Response Plan was a document for the Federal Government, describing how it would respond to for a request for assistance from the States and the CONPLAN was a document describing how the Federal government would respond to an act of terrorism on domestic soil. One of the recommendations of the 9/11 Commission and mandates included in the Homeland Security Act called for a consistent and coordinated national emergency response plan. Title V of P.L. 107-296, called for DHS, through the Undersecretary for Emergency Preparedness and Response, to be responsible for “consolidating existing Federal Government emergency response plans into a single, coordinated national response plan” to unify the disparate plans. While the resulting plan was not perfect, it was necessary for coordinated national planning and response. This initial plan included the much questioned creation of the Principal Federal Official (PFO), which NEMA opposed, and the new event declaration of an “Incident of National Significance”. Current NEMA President Albert Ashwood served to represent NEMA on this state and local group.

The current rewriting effort was mandated as a responsibility of FEMA in last year’s Post-Katrina Emergency Management Reform Act. FEMA is responsible for “administering and ensuring the implementation of the National Response Plan, including and coordinating and ensuring the readiness of each emergency support function under the National Response Plan”. The legislation goes on to address expectations in the NRP’s operational capability to meet the national preparedness goal, other functions, and to ensure that it can work appropriately in times of disaster. Congress, the Administration, and the GAO all called for the need to update the National Response Plan in the aftermath Hurricane Katrina.

At the initial start of the plan rewrite, NEMA was heavily consulted and actively engaged. NEMA was included on the DHS/FEMA Interagency Steering Committee along with representatives of the federal agencies, a representative from the Major City Police Chief’s Association, and the International Association of Fire Chiefs. The process began in earnest in January 2007. In addition to our role with the Steering Committee, NEMA provided over 20 representatives to the various NRP working groups that spent weeks and months working as subject matter experts to provide input. These highly experienced state emergency management professionals participated in lengthy conference calls and flew across the country for meetings in Washington, D.C. – often with very short notice. The input provided was based on lessons learned from past disasters and a vision for the future.

Draft Framework Content

Since the informal release of the plan in early August, NEMA has identified a number of critical issues in the current draft of the framework that must be addressed before the framework can be recognized and accepted by state emergency managers as a viable

replacement for the National Response Plan. We raise these issues as partners in preparedness and response and to ensure appropriate readiness for any disaster. For the purposes of this hearing, our comments reflect the draft that was obtained in early August. NEMA is concerned that the vast majority of the input provided through the Interagency Steering Committee and writing teams was not included in the unofficial draft. Our comments reflected here are overarching concerns at a high level, and we may provide more detailed comments when the draft is formally released.

Overall, the most critical issue for NEMA is that the current framework is not a plan. The document reads more like a primer for state and local officials, which is a valuable resource, however not the national plan for responding to disasters. This can be compared to showing up for a football game with an encyclopedia entry in hand on who's involved and how the game is played, but without the actual playbook or understanding of the roles of the offense, defense, the coaches, and the referees. Essentially, only a small segment of the plan or the national team is being considered in the actual update. Much more detail is needed for state and local governments, who are responsible for saving lives and protecting property during disaster response, if they are expected to use this as the national plan for responding to disasters. The current framework is not sufficient for emergency responders and does not replace the previous NRP or the FRP. If the framework is intended to serve as simply a description of the system of response and an introduction to the players involved, an additional document, an actual operational plan, must be produced as well.

The current framework has been clearly drafted from a federal perspective, and does not appropriately address the planning needs of state and local governments nor does it follow commonly accepted emergency management planning principals. For instance, the draft implies that states must exhaust all mutual aid resources before federal disaster assistance may be requested. This statement is inaccurate and does not reflect current disaster law such as the Robert T. Stafford Disaster Relief and Assistance Act. Additionally, the framework causes confusion in the statement that "the framework is always in effect", yet throughout the document there are references to various points in which the Secretary can invoke the framework. The current document maintains the Principal Federal Official (PFO) as operational, yet the role was clarified in last year's Post-Katrina Emergency Management Reform Act to be informational only. NEMA supported the deletion of the position as duplicative and confusing. If it is to persist in doctrine, it must be explicitly clarified as having no operational role or authority. Finally, references to mitigation in the document are virtually non-existent and recovery is only sparingly mentioned.

The current document does not specifically say what the federal government brings to the table in a disaster, and the framework essentially writes FEMA out of a job by downplaying the role of the organization and the National Response Coordination Center (NRCC) and Regional Response Coordination Centers (RRCCs). State emergency management agencies directly interact and coordinate with FEMA during disaster response through the NRCC and RRCC in real time. National doctrine for response should eliminate uncertainty. The roles of the NOC and NRCC should be clarified and

cemented. Operations and coordination centers should serve as center collection and coordination points; a goal should be the reduction in the number of disparate operations centers, not the proliferation of them. One should not be left to wonder whom to call or talk to in times of crisis.

Also, the current framework references numerous other planning guides, hazard specific annexes and other resources that will have to be continuously developed and adapted to support the framework. It is stated that these reference items will be posted to websites and the emergency response community will be expected to know which plan is in play at any given time. Disaster preparedness is about preparing before a disaster occurs and not about downloading the playbook the day the disaster occurs. If the first time someone reads a disaster plan is when the event is unfolding, they have already lost. This concept must be reconsidered to not only allow for state and local governments to participate in annex development, but to also allow for adequate timing to practice, refine the playbook, and develop institutional knowledge.

State and local operations plans have been developed, updated and revised over the past two years to reflect the principles and concepts outlined in the National Response Plan. As states continue to train and exercise these plans with their partners at all levels of government, changes in federal plans and concepts make it difficult to institutionalize these plans. The process of revising, training and exercising plans at the state and local level takes one to two years. There is concern that continual rewrites at the federal level will make it difficult or impossible for states to effectively train and exercise and develop institutional knowledge.

Specific Policy Issues for Change

Some of the other critical changes that must be included in the plan are:

- The framework must clarify the appropriate roles and responsibilities of levels of government and response agencies to avoid causing confusion because of vague descriptions or inaccuracies;
- The framework must take into account the role of county as well as municipal governments, as counties are the critical links to local government in the emergency management field. More often than not, a municipality may not have an emergency management function and that function is set at the county level, while in some cases, state law requires cities, towns and townships to maintain emergency management functions;
- Coordination with the private sector and NGOs must be outlined further in the framework;
- The framework must reflect that Stafford Act disasters can be declared for many different events and not exclusively for natural disasters. The current draft seems to treat Stafford Act organizational structures as inappropriate for anything other than a natural disaster;
- The framework must address the varying organizational structures for emergency management and homeland security in the states. The draft says that State Homeland Security Advisors are the liaison between the Governors' Office and DHS. The Governor, as specified in the Stafford Act and within the principals of

- federalism, has the ability to specify their authorized representative or state coordinating officer to represent them before DHS or FEMA;
- The framework should be more specific on exchanging liaisons within command centers during an incident and should point to the National Incident Management System (NIMS) requirements and NIMS should dictate that major players working under a unified effort will exchange liaisons;
 - The framework must reflect the way that the interstate mutual aid system works in this country. States, at the request or direction of the Governor, are the only entity with the authority to request interstate mutual aid. This is based on an act of Congress to allow states to enter into the interstate Emergency Management Assistance Compact (EMAC). Responders do not directly request additional resources from other states or the federal government for mutual aid or otherwise – federal assistance must follow the Stafford Act as well. Further, states do not have to exhaust all EMAC sources before seeking federal assistance, as the Stafford Act does not specify mutual aid must be used first. In some disasters, it is not feasible to utilize mutual aid;
 - The framework must tie up inconsistencies among the Joint Field Office (JFO) and the Joint Operations Center (JOC) as to whether they should be established and how these offices are to interface with the state emergency operations center (EOC). Also, suggesting that a state EOC would co-locate with the JFO is unrealistic and would impede command and control from the normal disaster response operations. Departure from an EOC depends on the disaster – it must be a joint decision between FEMA and the state and not an automatic decision;
 - The framework must specify that the FEMA Administrator will, rather than may, recommend a course of action to the President when disaster assistance is requested by a Governor and this decision must be communicated with a yes or no to formal requests;
 - The framework language must be clear on the roles of the National Operations Center and the NRCC and must coordinate the roles to not place an undue burden on states for information and situational awareness in the midst of a disaster;
 - The framework must unify the efforts of National Infrastructure Protection Plan (NIPP) Preparedness Planning and the National Preparedness Planning;
 - The framework must clarify the assignment of responsibility and associated procedures, as the framework calls for states to clearly assign responsibility but the framework itself does not itself; and
 - The framework must clearly define the role of the FEMA Administrator as clarified by the Post-Katrina Emergency Management Reform Act. The framework must address the role of the FEMA Administrator as the principal advisor to the President, Homeland Security Advisory, and the Secretary of the Department of Homeland Security for all matters relating to emergency management and disasters. Additionally, the President is authorized by Congress to designate the Administrator to serve as a member of the cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters. The framework must take into account this provision in the event that the President chooses to implement the section during times of disaster.

Revision Process

The collaborative and cooperative process in rewriting the document completely broke down when all of the input and advice from partners was put aside for an internal DHS rewrite. In the past week it appears to have improved, and we hope we are moving beyond that, but we want to lay out the history of this product with you. In April 2007, NEMA was informed that DHS needed additional time to consider all of the input received from federal agencies and stakeholders and that they would not be able to meet the designated June timeframe to formally release the revised NRP, but would do so at the first opportunity. In the following weeks, NEMA learned that DHS was undertaking a complete rewrite of the newly completed NRP in a closed door process, with no stakeholder input, working group involvement, or steering committee visibility. In early July, NEMA was informed that the nearly complete NRP was in fact being completely and substantively rewritten and would be renamed the National Response Framework and would include significantly more detail and direction on the responsibilities and expectations of State and local governments, written without the input or collaboration of any State or local government representation.

We are told that this current draft is being reworked, and an interim final draft with a limited 30 day comment period is imminent. To date, attempts have been made to open communication such as NEMA's letter to Secretary Chertoff outlining concerns on August 23, 2007, a more detailed explanation of issues sent to the DHS/FEMA Interagency Steering Committee on August 28, 2007, and finally a conference call a last week with key DHS/FEMA participants to address the draft. Additionally, in the past week, FEMA has scheduled a meeting with key stakeholders to unveil the framework on September 13th, and the FEMA Regional Administrators are attempting to schedule meetings with States throughout the country over the next month. As a national association, we are particularly troubled and remain concerned by a short comment period and want to ensure that a process is put in place to consider and address the comments from stakeholders. If the collaborative and cooperative process remains strained, we fear that state and local governments and emergency responders will be hard pressed embracing a plan that has not seriously taken their input into account. We believe that FEMA went through this process with the best of intentions to meet their statutory and Administrative mandates and to also include state and local input to build strong partnerships for the NRP.

Conclusion

Again, NEMA appreciates the opportunity to testify and provide Congress with comments on the National Response Framework. We hope that by outlining our current concerns, we can help DHS make an effort to engage stakeholders to address the shortfalls of the current framework and work to strengthen the final product. NEMA has offered our assistance to DHS in this regard and remains committed to partnering with DHS on the framework. We hope we can improve this framework to be a true national plan in partnership with Congress and the Administration.